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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: - Hon'ble Shri S.R. NAYAK, CJ

WRIT PETITION NO. 5543 OF 2005

PETITIONER/ PLAINTIFF

Krishn Kumar,
S/o Hari Satnami, Aged about 33 years, R/o Patwari Halka No.93/48, R.I. Circle Palari, Tahsil Baloda Bazar District Raipur (C.G.).

Versus

RESPONDENTS/ DEFENDANTS

1. Sadh Ram,
S/o Chhotu Satnami, Aged 40 years.

2. Vishnu Prasad,
S/o Sadh Ram Satnami, Aged 31 years.

3. Bhavendra Prasad,
S/o Sadh Ram Satnami, Aged about 26 years.

All residents of Village Kodua, Tahsil Palari, District Raipur (C.G.).

4. Collector, Raipur (C.G.).
Though State of Chhattisgarh.

Present:

Mr. Awadh Tripathi, learned counsel for the petitioner.

ORDER
(Passed on 28th November 2005)

This petition is filed under Article 227 of the Constitution of India. The petitioner has filed a suit which is pending in the Court below for declaration and permanent injunction with regard to the suit schedule property. Respondents No. 2 and 3 herein made an application under Order 1 Rule 10 of the Code of Civil Procedure to implead themselves as

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additional defendants No. 2 and 3 respectively. The application was opposed by the petitioner herein. The Court below having considered the merits of the matter allowed the application by the impugned order.

Heard the learned counsel for the petitioner and perused the impugned order. It was contended that since the petitioner/plaintiff has not sought any relief against respondents No. 2 and 3, the Court below ought not to have allowed the application filed by them under Order 1 Rule 10 of the Code of Civil Procedure. The contention is not acceptable to the Court. It needs to be noticed that in the application filed by respondents No. 2 and 3 it was contended that they have acquired a title to the same suit schedule property under a will, and therefore, it cannot be said that such persons are not proper and necessary parties to the suit. The discretion exercised by the trial Court cannot be faulted with. I do not find any merit in the writ petition. In the result, the writ petition is dismissed, however with no costs.

Sd/-
Chief Justice

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